

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

HEATH ALLEN PAIN (01)

NO. 4:20-CR-182-O

**UNITED STATES' UNOPPOSED
MOTION FOR FINAL ORDER OF FORFEITURE**

Pursuant to Fed. R. Crim. P. 32.2(c), the United States of America moves the Court to enter a Final Order of Forfeiture, and in support states:

1. On October 26, 2020, pursuant to the provisions of 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), this Court entered a Preliminary Order of Forfeiture forfeiting the following property to the United States:

a. Glock, model 27, .40 caliber pistol, bearing serial number XDK096, including any ammunition, magazines, and/or accessories recovered with the firearm

(“Subject Property”). Under Rule 32.2(b)(4)(A), this order became final as to the defendant at the defendant’s sentencing on January 8, 2021 (Dkt. 40). However, since the Court’s order forfeited specific property, “it remains preliminary as to third parties until the ancillary proceeding is concluded under Rule 32.2(c).”

2. The defendant has not appealed the Preliminary Order of Forfeiture.
3. Before the Court can enter a final order of forfeiture, under 21 U.S.C. §

853(n)(1) and Fed. R. Crim. P. 32.2(b)(6)(A) the government must publish notice of the forfeiture and send notice to any person who reasonably appears to be a potential claimant to property. The government has complied with these requirements.

4. Beginning on August 7, 2021, and continuing for at least 30 consecutive days, the government published notice of the criminal forfeiture on an official government internet site. Dkt. 42.

5. Pursuant to 21 U.S.C. § 853(n)(2), no later than 60 days after the first day of publication on the government website or 30 days after receipt of notice of the forfeiture (whichever is earlier), any person asserting a legal interest in the property could petition the Court for a hearing to adjudicate the validity of his or her interest in the Subject Property. No third-party petitions have been filed within the prescribed deadlines.

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6. On January 8, 2021, the Court entered its judgment. Dkt. 40. The government has not appealed the judgment so under Fed. R. App. P. 4, the defendant had 14 days from the judgment's entry to file a notice of appeal. The defendant has not filed a timely notice of appeal.

WHEREFORE, the United States requests that this Court enter the enclosed Final Order of Forfeiture, a copy of which will also be sent in Word format to the Court's email.

Respectfully submitted,

CHAD E. MEACHAM
UNITED STATES ATTORNEY

s/ MARK L. NICHOLS
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CERTIFICATE OF CONFERENCE

As the defendant has already forfeited his interest in the property, there was no need for a conference with the defendant's counsel. No third parties have filed timely petitions.

s/ MARK L. NICHOLS
MARK L. NICHOLS
Assistant United States Attorney